

rates of premium that have been withdrawn and no producer, approved insurance provider, or any other person will have a right of action against the applicant; and

(5) Notwithstanding the policy provisions regarding cancellation, any policy, plan of insurance, or rates of premium that have been timely withdrawn are deemed canceled and applications for insurance are not accepted as of the date that FCIC publishes the notice of withdrawal on its website at www.act.fcic.usda.gov. Producers will have the option of selecting any other policy or plan of insurance authorized under the Act that is available in their area by the sales closing date for such policy or plan of insurance.

(6) Failure of the applicant to perform the applicant's responsibilities may result in the denial of reinsurance for the policy or plan of insurance.

(b) With respect to FCIC:

(1) FCIC is responsible for:

(i) Ensuring that all approved insurance providers receive the approved policy or plan of insurance, and related materials, for sale to producers in a timely manner (All such information shall be communicated to all approved insurance providers through FCIC's official issuance system.);

(ii) Ensuring that all approved insurance providers receive reinsurance under the same terms and conditions as the applicant (approved insurance providers should contact FCIC to obtain and execute a copy of the reinsurance agreement) if required;

(iii) Conducting the best review of the submission possible in the time allowed; and

(iv) Reviewing the activities of approved insurance providers, agents, loss adjusters, and producers to ensure that they are in accordance with the terms of the policy or plan of insurance, the reinsurance agreement, and all applicable procedures;

(2) FCIC will not be liable for any mistakes, errors, or flaws in the policy, plan of insurance, their related materials, or the rates of premium and no cause of action will exist against FCIC as a result of such mistake, error, or flaw in a submission submitted under this subpart;

(3) If at any time prior to the cancellation or termination date, FCIC discovers that there is a mistake, error, or flaw in the policy, plan of insurance, their related materials, or the rates of premium that results in over or under insurance, FCIC will deny reinsurance to such policy or plan of insurance:

(4) If reinsurance is denied under paragraph (b)(3) of this section, the approved insurance provider will have the option of:

(i) Selling and servicing the policy or plan of insurance at its own risk and without any subsidy; or

(ii) Canceling the policy or plan of insurance in accordance with its terms; and

(5) If the applicant transfers the policy or plan of insurance to FCIC in accordance with § 400.712 (k)(2), FCIC will assume the liability for any mistakes, errors, or flaws that occur after the policy or plan insurance as been transferred and FCIC is in control of maintenance.

§ 400.710 Preemption and premium taxation.

A policy or plan of insurance that is approved by the Board for FCIC reinsurance is preempted from state and local taxation.

§ 400.711 Right of review, modification, and the withdrawal of reinsurance.

At any time after approval, the Board may review any policy, plan of insurance, related materials, and rates of premium approved under this subpart and request additional information to determine whether the policy, plan of insurance, related materials, and rates of premium comply with statutory or regulatory changes or court orders, are still actuarially appropriate, and protect program integrity and the interests of producers. The Board will notify the applicant of any problem or issue that may arise and allow the applicant an opportunity to make any needed change. The Board may deny reinsurance for the applicable policy, plan of insurance or rate of premium if:

(a) The applicant fails to perform their responsibilities under § 400.709; or

(b) If the applicant does not satisfactorily provide materials or resolve any issue so that necessary changes can be made prior to the earliest contract change date.

§ 400.712 Research and development reimbursement, maintenance reimbursement, and user fees.

(a) Submissions approved by the Board for reinsurance under section 508(h) of the Act may be eligible for a one time payment of research and development costs and maintenance costs for up to four reinsurance years, as determined by the Board after the date such costs have been approved by the Board. Reimbursements made under this section will be considered as payment in full for research, development, and maintenance, as applicable, for any policy or plan of insurance and any property rights to the policy or plan of insurance.

(b) For submissions submitted to the Board for reinsurance after publication of this subpart, an estimate of a request for reimbursement of research and development costs and maintenance costs, as applicable, must be included with the original submission to the Board in accordance with this section. These estimates will only be used by FCIC for the purpose of tracking potential expenditures and will not provided a basis for making any reimbursements under this section. Documentation of actual costs allowed under this section will be used to determine any reimbursement.

(c) For a submission approved by the Board, or submitted to the Board, prior to publication of this subpart, a request for reimbursement for research and development costs and estimated maintenance costs must be received within 60 days following publication of this subpart or approval of the submission by the Board. This request should be sent to the Deputy Administrator, Research and Development (or any successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133-4676, and also provide one identical copy of each submission to the Administrator, Risk Management Agency, 1400 Independence Ave., Stop 0801, Room 3053 South Building, Washington, D.C. 20250-0801.

(d) To be eligible for any reimbursement under this section, FCIC must determine that a submission is marketable.

(e) To be considered for reimbursement in any fiscal year, complete and final requests for research and development costs and maintenance costs, as applicable, must be received by FCIC not later than August 1. For 2001 fiscal year only, FCIC may consider reimbursement for research and development costs on approved submissions for any request received by September 1, 2001. Given the limitation on funds, regardless of when the request is received, no payment will be made prior to September 15 of the applicable fiscal year.

(f) There are limited funds available on an annual fiscal year basis as contained in the Act. Therefore, requests for reimbursement will not be considered in the order in which they are received. Consistent with paragraphs (g), (h), (i), (j), and (l) of this section, if all applicants' requests for reimbursement of research and development costs and maintenance costs in any fiscal year:

(1) Do not exceed the maximum amount authorized by law, the applicants may receive the full amount of reimbursement authorized under these subsections.

(2) Exceed the amount authorized by law, each applicant's reimbursement will be determined by dividing the total amount of each individual applicants' reimbursable costs authorized in paragraphs (g), (h), (i), (j), and (l) by the total amount of the aggregate of all applicants' reimbursable costs authorized in paragraphs (g), (h), (i), (j), and (l) for that year and multiplying the result by the amount of reimbursement authorized under the Act.

(g) The amount of reimbursement for research and development costs and maintenance costs, as applicable, will be determined based on the amount of reimbursement authorized under paragraph (f) of this section, adjusted for the complexity of the policy, plan of insurance, or rates of premium, as determined by FCIC, and the size of the area in which the policy, plan of insurance, or rates of premium may be offered.